

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Recreational Therapy Licensure

RULE CITATION: All Rules Submitted

**DEADLINE FOR RECEIPT: Thursday, September 7, 2017**

***NOTE: This request when viewed on computer extends several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In the Submission for Permanent Filing Forms, please complete Box 6 and state the date the Rules were published in the NC Register. The date was March 15, 2017.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 23, 2017

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Recreational Therapy Licensure

RULE CITATION: 21 NCAC 65 .1001

**DEADLINE FOR RECEIPT: Thursday, September 7, 2017**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In the Introductory Statement, line 1, please state "21 NCAC 65 .1001 is amended with changes as published in Vol. 31, Issue 18, Page 1832:"*

*Please note that you are changing the name and it needs to be reflected in the Rule. State this:*

**21 NCAC 65 .1001      ~~INVESTIGATIONS OF SUSPECTED VIOLATIONS AND COMPLAINTS~~**

*Further, the name of Rules does not fall within RRC review. But given the changes you are making to this Rule, you may want to rename it "Complaints and Reports"*

*In (a), line 5, what does "public" modify? Reports and complaints?*

*What are reports? Is this reports of disciplinary actions taken by some authority (employer, organization, accrediting body) other than the Board? That appears to be the case given Rule .1002(a).*

*On line 8, consider stating "disciplinary actions, including misconduct..."*

*And what do you mean by in the community? Is this to address arrests?*

*In (b), line 14, what is the "Board approved form"? If you mean a complaint form that requires what is in Paragraph (c), you can state "Board approved complaint form"*

*On line 15, will the public know the Board's contact information?*

*Also on line 15, please insert a comma after "email"*

*On line 16, what do you mean by "affirm"?*

*In (c), line 17, delete "and Regulations"*

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Also on line 17, replace “must” with “shall”

On line 18, delete “must” altogether

Consider starting (c)(5), (c)(7), and (c)(8) with a “the” to be consistent with the rest of the Subparagraphs.

In (c)(6), line 28, what is “respondent”? How do they differ from an individual?

In (c)(7), line 29, insert a comma after “address” and is this if known? What if a member of the public doesn’t know a licensee’s supervisors phone number?

In (c)(8), to be consistent, please begin the statement with a lowercase letter.

Also, what do you mean by “attesting”? Is this the same as “affirming” in (b)? If so, why not use the same verb both places?

In (d), line 31, make “Staff” lowercase.

Also on line 31, consider rewriting the second sentence to state who is doing what. “The complainant may correct the incomplete complaint and resubmit it to the Board.”

Should the sentence on line 32 be its own Paragraph? Or should it state “Upon receipt of the completed complaint, the Board shall receive and notify the complainant of receipt and open a file.”

In (f), line 34, consider stating “reviewed by the Executive Director and Board Chair, who shall determine whether further investigation is needed.”

And what will this determination be based upon? The facts alleged in the individual complaint or report and whether it violates law or rule?

In the History Note, please change the citation to 90C-24(a)(8). And put the citations in numerical order.

Also in the History Note, please insert the full note and the proposed amended effective date. It will look like this:

History Note: Authority G.S. ~~90-24(8); 90C-32;~~ 90C-24(a)(3); 90C-24(a)(8); 90C-32;  
Temporary Adoption Eff. December 1, 2005;  
Eff. January 1, 2007;  
Amended Eff. October 1, 2017.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 23, 2017

1 21 NCAC 65 .1001 IS PROPOSED FOR AMENDMENT AS PUBLISHED VOL. 31, ISSUE 18, PAGE  
2 1832:

3 21 NCAC 65 .1001 COMPLAINTS  
4

5 (a) ~~The Board shall accept self-reports, public~~ (a) It is the policy of the Board to investigate reports and complaints  
6 of suspected malpractice, violations of Chapter 90C, complaints, or reports of discipline by an employer and sanctions  
7 imposed by a credentialing organization or a professional association to protect the health, safety and welfare of  
8 recreational therapy consumers; disciplinary issues to include misconduct in the workplace or the community by any  
9 licensee.

10 (b) ~~The Board may require information from the licensee regarding any disciplinary action taken by an employer or~~  
11 any sanctions issued to the licensee by a credentialing board or by a professional association. If this information  
12 indicates suspected malpractice or ethical violations the Board will investigate the matter in the same manner as a  
13 complaint and may, if the facts indicate that malpractice or ethical violation has occurred, issue sanctions or otherwise  
14 discipline the licensee. The complainant shall submit a signed Board approved form. The form shall be filed  
15 electronically on the Board website at [www.ncbrtl.org](http://www.ncbrtl.org) or by contacting the Board office by phone, email or mail for  
16 a form. The complainant shall affirm he or she believes the facts stated in the complaint or report to be true.

17 (c) A complaint regarding a violation of the G.S. 90C or Rules and Regulations must be submitted in writing within  
18 24-72 hours of occurrence or upon receipt of knowledge regarding a suspected occurrence and must ~~document:~~  
19 document the following facts pertaining to the complaint or report:

- 20 (1) ~~The name of the licensee or other person involved;~~  
21 (2) ~~A description of the alleged behavior or incident; and~~  
22 (1) the complainant first and last name;  
23 (2) the complainant address;  
24 (3) the complainant phone number;  
25 (4) the licensee first and last name;  
26 (5) nature of the complaint and description of the alleged behavior or incident;  
27 (3)(6) ~~The name, mailing address, email address and phone number of the person filing the complaint.~~  
28 individual or respondent involved in the complaint;  
29 (7) name, work address and phone number of the supervisor of the individual being reported; and  
30 (8) Signature of complainant attesting to the truthfulness of the information

31 (d) The Board Staff shall return any incomplete forms to the complainant. An incomplete complaint may be corrected  
32 and resubmitted. The Board shall receive and notify the complainant of receipt of complaint and open a file.

33 (e) The Board shall not accept any anonymous complaints.

34 (f) Complaints and reports will be reviewed by the Executive Director and Board Chair the Board Chair and Board  
35 Executive Director shall determine if further investigation is needed.

36 (e) ~~Action on a complaint, a report of a suspected violation of any provision of Chapter 90C, or a report of discipline~~  
37 by an employer or sanction by a credentialing organization or a professional association consists of the following:

- 1           (1)     ~~The Board shall receive and acknowledge complaints, open a file and initiate complaint tracking.~~
- 2           (2)     ~~Complaints will be screened to determine jurisdiction and the type of response appropriate for the~~  
3                 ~~complaint.~~
- 4           (3)     ~~Investigation:~~
- 5                 (A)     ~~If the facts do not clearly indicate a Chapter 90C violation, and the complaint can be~~  
6                 ~~handled without an investigation, the Board shall request that the licensee cease conduct~~  
7                 ~~that could result in a violation.~~
- 8                 (B)     ~~If the facts clearly indicate a Chapter 90C violation, the Board shall initiate an~~  
9                 ~~investigation. The Board may utilize additional personnel such as licensees, law~~  
10                ~~enforcement officials, or other technical personnel that may be required in a particular case.~~  
11                ~~If a Board member is utilized in the investigation, care must be taken to observe due process~~  
12                ~~by separating (1) investigation, (2) prosecution, and (3) hearings and final decision-~~  
13                ~~making. No Board member shall participate in more than one of these three steps in the~~  
14                ~~enforcement process.~~
- 15                (C)     ~~A confidential report of each investigation shall be prepared for the Board's review.~~
- 16           (4)     ~~Formal and Informal Hearings:~~
- 17                 (A)     ~~The Board, after review of an investigative file, may schedule an informal meeting.~~
- 18                 (B)     ~~If the matter cannot be resolved informally, then a formal hearing shall be held.~~
- 19                 (C)     ~~Members of the Board shall not have communication with parties outside of the hearing~~  
20                 ~~about the case.~~
- 21           (5)     ~~Final Orders: As soon as possible, but at least within 60 days, the Board will issue its final decision~~  
22                 ~~in writing specifying the date on which it will take effect. The Board will serve one copy of the~~  
23                 ~~decision to each party to the hearing.~~
- 24           (6)     ~~Compliance: The Board Chair will initiate a follow up inquiry to determine that the orders of the~~  
25                 ~~Board are being obeyed.~~
- 26           (7)     ~~Formal hearings shall be conducted in accordance with G.S. 150B-38 et seq~~
- 27   (f) ~~The following disciplinary sanctions regarding recreational therapists and recreational therapy assistants may,~~  
28   ~~among others, be utilized by the Board:~~
- 29                 (1)     ~~Denial of Application;~~
- 30                 (2)     ~~Letter of Reprimand;~~
- 31                 (3)     ~~Required remedial education;~~
- 32                 (4)     ~~Probation;~~
- 33                 (5)     ~~Suspension of license;~~
- 34                 (6)     ~~Refusal of License Renewal;~~
- 35                 (7)     ~~Revocation of license;~~
- 36                 (8)     ~~Injunction.~~

1 ~~(g) The Board may request information from professional associations, professional review organizations, hospitals,~~  
2 ~~clinics or other institutions in which a licensee performs professional services, on possible chemical abuse, or~~  
3 ~~incompetent or unethical behavior.~~

4 ~~(h) The Board will provide notice of sanction taken by it to other public entities as necessary to ensure that other state~~  
5 ~~boards, enforcement authorities, and accrediting agencies receive the names of licensees disciplined.~~

6  
7 *History Note: Authority G.S. 90-24(8); 90C-32; 90C-24(a)(3).*  
8 *Eff. October 1, 2017*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Recreational Therapy Licensure

RULE CITATION: 21 NCAC 65 .1002

**DEADLINE FOR RECEIPT: Thursday, September 7, 2017**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In the Introductory Statement, please state "21 NCAC 65 .1002 is adopted with changes as published in Vol. 31, Issue 18, Pages 1833-1834."*

*In (a), who is sending the complaint or report? Is it the public, a self-report, or discipline by the workplace?*

*On line 3, state "Rule .1001 of this Section,"*

*In (b), line 6, what is contained in the "Board's Incident Form"? Is it the information in (b)(1) through (6)? If so, state that on line 7 after "Complaints." State "The form requires the following:"*

*On line 7, insert a comma after "org."*

*In (b)(1), what is "de-identified"? Does your regulated public know?*

*End (b)(3) and (b)(4) with semicolons.*

*In (b)(6), will the employer always react to a sanction by a credentialing body or professional association?*

*In (c), line 14, state "The individual shall send the form by mail to the Board's mailing address or via email to the Board's email address. The Board staff shall open a file and assign a case number."*

*In (d), what if it is the professional association, etc. that sent the initial complaint or report? Will the Board still make this request?*

*On line 16, insert an "or" after "organizations,"*

*On line 17, replace "in which" with "where"*

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 23, 2017

*In (e), what does this mean? Who is the complainant here? Are you referring to the requirements of Rule .1001 here? If so, then why do you need to repeat that here?*

*In (f), who will create this?*

*Also in (f), what is the authority to say this is confidential?*

*In the History Note, please state "90C-24(a)(8);"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 23, 2017



1 **21 NCAC 65 .1002 IS PROPOSED AS PUBLISHED IN VOL.31, ISSUE 18, PAGES 1833-1834:**

2 **21 NCAC 65 .1002 INVESTIGATIONS**

3 (a) After accepting a report or complaint as referenced in Rule .1001, the Board shall require information from the  
4 licensee regarding any disciplinary action taken by an employer or any sanctions issued to the licensee by a  
5 credentialing board or by a professional association.

6 (b) The individual being reported shall submit the Board's Incident Form located on the Board's website  
7 www.ncbrtl.org located under the headings of Documents or Complaints:

8 (1) the name of individuals (clients to be de-identified) present at the time of the incident;

9 (2) a description of the alleged behavior or incident;

10 (3) the individual's supervisor's name, mailing address, email address and phone number;

11 (4) the copies of any written notes, or de-identified client records involved;

12 (5) the date and time of the incident; and

13 (6) a summary of employing agency's action in response to the incident.

14 (c) The Board staff shall receive the information by mail at the Board's mailing address or by email at Board's email  
15 address, open a file and assign a case number.

16 (d) The Board staff shall request information from professional associations, professional review organizations,  
17 facilities in which a licensee performs professional services concerning the case.

18 (e) The complainant may correct the incomplete complaint and resubmit to the Board.

19 (f) A confidential report of each investigation shall be prepared for the Board's review.

20

21 *History Note: Authority G.S. 90C-24(a)(3); 90-24(8); 90C-32.*

22 *Eff: October 1, 2017*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Recreational Therapy Licensure

RULE CITATION: 21 NCAC 65 .1003

**DEADLINE FOR RECEIPT: Thursday, September 7, 2017**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In the Introductory Statement, please state "21 NCAC 65 .1003 is adopted with changes as published in Vol. 31, Issue 18, Page 1834."*

*On line 6, replace "they" with "he or she" or "the individual"*

*On line 7, consider stating "the rules in this Chapter"*

*On line 8, what is this form? What is contained in it?*

*In the History Note, why are you citing to G.S. 90C-22(2)? Because it sets forth the scope of practice for a Licensed Recreational Therapist?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 23, 2017

1 **21 NCAC 65 .1003 IS PROPOSED AS PUBLISHED IN VOL.31, ISSUE 18, PAGE 1834:**

2

3 **21 NCAC 65 .1003 LETTER OF NOTIFICATION**

4 If the Board receives information that an individual may be practicing recreational therapy without a license, the Board  
5 shall issue a Letter of Notification. The Board shall inform the individual in writing that his or her practice may be  
6 considered within the recreational therapy scope of practice and they could be found in violation if he or she continues  
7 to practice recreational therapy without a license. The Board shall refer the individual to Chapter 90C, this Chapter  
8 and the NCBRTL Employment Form.

9

10 *Authority G.S. 90C-22(2); 90C-32(6)*

11 *Eff: October 1, 2017.*

12

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Recreational Therapy Licensure

RULE CITATION: 21 NCAC 65 .1004

**DEADLINE FOR RECEIPT: Thursday, September 7, 2017**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In the Introductory Statement, please state "21 NCAC 65 .1004 is adopted with changes as published in Vol. 31, Issue 18, Page 1834."*

*In (a), line 3, replace "in Section 34 of this Chapter" with "G.S. 90C-34,"*

*In (a)(1) and (2), what is this authorization? I don't see authority for the Board to authorize anything in Chapter 90C, but wanted to check.*

*In (a)(3), replace "Section 22 of Chapter 90C" with "G.S. 90C-22(2)"*

*End (a)(4) with a period.*

*In (b), what is the NCBRTL Employment form and what is contained in it?*

*In (c), line 18, the correct cross-reference is "Rule .1005 of this Section."*

*In the History Note, state "90C-24(a)(8)."*

*Do not include the citation to 90-32. Simply remove it here.*

*Separate all citations by semicolons.*

*The History Note will look like this:*

*History Note: Authority G.S. 90C-22(2); 90C-24(a)(8); 90C-32; 90C-36; 90C-37;  
Eff. October 1, 2017.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 23, 2017

1 **21 NCAC 65 .1004 IS PROPOSED AS PUBLISHED IN VOL.31, ISSUE 18, PAGE 1834:**

2 **21 NCAC 65 .1004 UNAUTHORIZED PRACTICE**

3 (a) Except as otherwise authorized in Section 34 of this Chapter non-licensed individuals shall not:

4 (1) Practice, attempt to practice, supervise recreational therapy, or hold out any individual as being able  
5 to do any of these things in this State, without first having obtained a license or authorization from  
6 the Board for the individual performing services or being so held out;

7 (2) Use in connection with any individual's name any letters, words, codes, or insignia indicating or  
8 implying that the individual is a recreational therapist or recreational therapy assistant, unless the  
9 individual is licensed or authorized in accordance with this Chapter;

10 (3) Practice or attempt to practice recreational therapy as defined in Section 22 of Chapter 90C and  
11 referenced in the ATRA Standards of Practice with a revoked, lapsed, or suspended license; or

12 (4) Aid, abet, or assist any unlicensed individual to practice recreational therapy in violation of this  
13 Article;

14 (b) To determine whether an individual has engaged in the unauthorized practice of recreational therapy, the Board  
15 shall request the individual complete a NCBRTL Employment Form listing the duties performed by the individual  
16 being investigated.

17 (c) To the extent permitted by law, any individual found by the Board to be engaged in the unauthorized practice of  
18 recreational therapy shall be subject to the sanctions set forth in Rule .1003 of this Chapter.

19

20 *History Note: Authority G.S. 90C-22(2); 90-24(a)(8); 90-32, 90C-32, 90C-36; 90C-37.*

21 *Eff; October 1, 2017*

22

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Recreational Therapy Licensure

RULE CITATION: 21 NCAC 65 .1005

**DEADLINE FOR RECEIPT: Thursday, September 7, 2017**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In the Introductory Statement, please state "21 NCAC 65 .1005 is adopted with changes as published in Vol. 31, Issue 18, Page 1834."*

*Arrangement of the rules is within the discretion of the agency. However, I suggest you move this Rule to be behind current proposed Rule 21 NCAC 65 .1006, as that defines the terms "Compliance Violation" and "Practice Violation" as well as "corrective action plan" I believe that doing this will make reading the rules clearer and easier.*

*In (a), line 4, delete "and"*

*In (a)(3), what is this "required remedial education"? Is it what is addressed in (b)(4)? Or are you relying upon the language in G.S. 90C-32 to address this?*

**§ 90C-32. Revocation, suspension, or denial of licensure.**

The Board may require remedial education, issue of a letter of reprimand, restrict, revoke, or suspend any license issued pursuant to this Chapter or deny any application for licensure if the Board determines that the licensee or applicant has done any of the following:

*And I take it that you need to spell out the disciplinary sanctions from this statute and G.S. 90C-37 for the ease of your regulated public?*

*On line 5, should "set forth" be "violates"? I think you mean something akin to that, rather than "A licensee did something they are licensed to do," which is what it currently says.*

*In (b), line 13, do you need to retain "When it has been determined a violation has occurred," given the language in (a)?*

*On line 13, please hyphenate "case-by-case"*

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: August 23, 2017

*In (b)(1) through (4), consider inserting a “the” before “licensee”*

*In (b)(3), reports of what? And will the designated time be within the order imposing discipline?*

*In the History Note, replace “90C-24(8)” with “90C-24(a)(8)” and replace “90-32” with “90C-32”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 23, 2017

1 **21 NCAC 65 .1005 IS PROPOSED AS PUBLISHED IN VOL.31, ISSUE 18, PAGE 1834:**

2 **21 NCAC 65 .1005 SANCTIONS**

3 (a) Upon the Board's determination that an applicant or licensee (if the licensee has not entered into a corrective  
4 action plan) and has violated the rules set forth in this Chapter with a Compliance or Practice Violation or engaged in  
5 any conduct set forth in G.S. Chapter 90C, the Board may impose one or more of the following disciplinary sanctions:

- 6 (1) Denial of Application;
- 7 (2) Letter of Reprimand;
- 8 (3) Required Remedial Education;
- 9 (4) Restriction by Probation;
- 10 (5) Suspension of License;
- 11 (6) Revocation of License; or
- 12 (7) Request for Injunction.

13 (b) When it has been determined a violation has occurred, on a case by case basis, the Board may also impose  
14 restrictions and conditions on a licensee's practice including:

- 15 (1) restriction on licensee's scope of practice;
- 16 (2) direct supervision of licensee's practice;
- 17 (3) requiring licensee to submit quarterly reports for a designated amount of time to the Board; or
- 18 (4) requiring licensee to complete additional educational coursework.

19 (c) Information regarding disciplinary sanctions for any licensee shall be available on the Board's website,  
20 www.ncbrtl.org. The Board shall list the following:

- 21 (1) the name of the licensee;
- 22 (2) the agency;
- 23 (3) the infraction(s);
- 24 (4) the sanction(s) imposed by the Board; and
- 25 (5) the date(s) of imposition.

26

27 *History Note: Authority G.S. 90C-24(8); 90C-32; 90-36; 90C-37.*

28 *Eff: October 1, 2017*

29

30

31



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Recreational Therapy Licensure

RULE CITATION: 21 NCAC 65 .1006

**DEADLINE FOR RECEIPT: Thursday, September 7, 2017**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In the Introductory Statement, please state "21 NCAC 65 .1006 is adopted with changes as published in Vol. 31, Issue 18, Pages 1834 - 1835."*

*In (a)(1), line 4, and (b)(1), line 17, replace "Rule" with "Section" and insert a comma after "Section" It will read "~~Rule~~ Section."*

*In (a)(1)(A), line 6, why is "Maintenance and Renewal" capitalized?*

*In (a)(1)(B), line 7, why is "Renewal" capitalized?*

*Also in (a)(1)(B), line 8, what is this due date prescribed by the Board? Is it what is in G.S. 90C-29?*

### **§ 90C-29. License renewal.**

Every license issued pursuant to this Chapter shall be renewable every two years. Within 30 days before the expiration date, a person who desires to continue to be licensed in the field of therapeutic recreation or recreational therapy shall apply for license renewal on forms furnished by the Board. The applicant shall meet criteria for renewal, including continuing education, established by the Board as defined by rule and shall pay the required fee established by the Board pursuant to this Chapter. Failure to renew the license before the expiration date shall result in automatic forfeiture of any license issued pursuant to this Chapter.

**The Executive Director shall notify, in writing, every person at his or her last known address of the expiration of his or her license and the amount that is required for its two-year renewal.** (2005-378, s. 2.)

*Just so I'm clear – what will control if the license is expired exactly one month? If it's less than a month, it's a Compliance Violation per (a)(1)(C), and if it exceeds a month, it's a Practice Violation per G.S. (b)(F). But what if it's exactly one month?*

Amanda J. Reeder  
Commission Counsel

Date submitted to agency: August 23, 2017

*In (a)(2), line 13, insert "the" before "license" And do you even need the "if" here, since it appears meeting any of (a)(1) will be a failure to renew pursuant to G.S. 90C-29, so the license will be expired, correct?*

*On line 15, will the date specified be via an order?*

*In (b)(1)(B), I take it that the Board will determine the "potential harm"?*

*In (a)(2) and (b)(2), I take it the determination will be made after a hearing or other disciplinary proceeding?*

*In the History Note, please end the citations with semicolons. So, state "90C-32; 90C-36; 90C-37;"*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 23, 2017

1 **21 NCAC 65 .1006 IS PROPOSED AS PUBLISHED IN VOL.31, ISSUE 18, PAGE 1834-1835:**

2 **21 NCAC 65 .1006 VIOLATIONS**

3 (a) Following an investigation, the Board shall determine whether a Compliance Violation has occurred.

4 (1) As used in this Rule a "Compliance Violation" shall mean:

5 (A) A licensee's failure to pay required fee in accordance with Rule .0501 of this Chapter by  
6 the due date for Maintenance and Renewal;

7 (B) A licensee's failure to submit Renewal/Continuing Education requirements by the Renewal  
8 due date prescribed by the Board and in accordance with Rules .0601 and .0602 of this  
9 Chapter; or

10 (C) A licensee practicing with an expired license for less than one month.

11 (2) The Board shall allow a licensee that it determines has committed a Compliance Violation to enter  
12 into a "Corrective Action Plan." The Corrective Action Plan shall require the licensee to submit  
13 missing documents, a Reinstatement Application and fee if license has expired in accordance with  
14 Rule .0501 of this Chapter. Each violation shall require the licensee to attend a "NCBRTL  
15 Compliance and Ethics" training session by a date specified by the Board.

16 (b) Following an investigation, the Board shall determine whether a Practice Violation has occurred.

17 (1) As used in this Rule a "Practice Violation" shall mean:

18 (A) Practicing Recreational Therapy without a license from the Board;

19 (B) Actions by a licensee that caused a client or patient actual or potential harm;

20 (C) A licensee practicing beyond the scope of practice for recreational therapy;

21 (D) A licensee's failure to follow the physician's orders as prescribed for a client or patient;

22 (E) A licensee's violation of the ATRA Code of Ethics in the Standards of Practice in  
23 accordance with Rules .0203 and .0204; or

24 (F) A licensee continuing to practice with an expired license for a period exceeding one month.

25 (2) In the event the Board determines that a licensee or other individual has committed a Practice  
26 Violation, the Board shall issue one or more of the disciplinary sanctions set forth in Rule .1005 of  
27 this Section.

28

29 *History Note: Authority G.S. 90C-32; 90C-36; 90C-37.*

30 *Eff: October 1, 2017*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Recreational Therapy Licensure

RULE CITATION: 21 NCAC 65 .1007

**DEADLINE FOR RECEIPT: Thursday, September 7, 2017**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made:

*In the Introductory Statement, please state "21 NCAC 65 .1007 is adopted with changes as published in Vol. 31, Issue 18, Page 1835."*

*In (a), line 4, should "individual" instead "licensee"? Or do you mean "individual" in order to capture applicants, as well?*

*On line 4, replace "must" with "shall"*

*Line 5, please make (b) its own Paragraph. As this was correct in the Register publication, you do not need to show this as a change. Simply do it.*

*Line 6, replace the semicolon after "include" with a colon.*

*In (b)(5), if you are trying to say that the individual may provide any new information that he or she thinks is relevant, why not state that instead? Because what if there is no new information? Is that required for a hearing?*

*In (e), line 14, replace "must" with "shall"*

*In the History Note, do not cite to 90C. If you need to cite to something in 90C, cite specifically to 90C-24. But I think that G.S. 150B-38 is sufficient.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder  
Commission Counsel  
Date submitted to agency: August 23, 2017

1 **21 NCAC 65 .1007 IS PROPOSED FOR ADOPTION AS PUBLISHED IN VOL.31, ISSUE 18, PAGE 1835**

2 **NCAC 65 .1007 HEARINGS**

3

4 (a) The individual may submit a request for a hearing in the Board's office. The request must be received by the  
5 Board within 30 days of the date such individual receives notice of the Board's action or proposed action. (b) The  
6 written request must include:

7 (1) a statement of request for a hearing before the Board;

8 (2) the name and address of the petitioner;

9 (3) a statement of the action taken by the Board that is being challenged;

10 (4) a statement of reason(s) the petitioner has been aggrieved; and

11 (5) a statement of any new information that may be available.

12 (c) The Board shall schedule the hearing within 60 days of receipt of the request.

13 (d) The Board shall serve one written copy of the decision to each party in the hearing.

14 (e) Formal hearings must be conducted in accordance with G.S. 150B-38.

15

16 *History Note; Authority G.S. 90C; 150B-38*

17 *Eff: October 1, 2017*

18